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Summary record of the 29th meeting
Held at Headquarters, New York, on Monday, 24 October 2011, at 10 a.m.

Chair: Mr. Haniff Hussein ..... (Malaysia)

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11-56085 (E)

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The meeting was called to order at 10.05 a.m.

Agenda item 69: Promotion and protection of human rights (*continued*) (A/66/87)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/66/156, A/66/161, A/66/203, A/66/204, A/66/216, A/66/225, A/66/253, A/66/254, A/66/262, A/66/264, A/66/265, A/66/268, A/66/269, A/66/270, A/66/271, A/66/272, A/66/274, A/66/283, A/66/284, A/66/285, A/66/289, A/66/290, A/66/293, A/66/310, A/66/314, A/66/325, A/66/330, A/66/342, A/66/342/Add.1 and A/66/372)

(c) Human rights situations and reports of special rapporteurs and representatives (A/66/267, A/66/322, A/66/343, A/66/358, A/66/361, A/66/365, A/66/374 and A/66/518)

1. **Ms. Ezeilo** (Special Rapporteur on trafficking in persons, especially women and children) introduced her report to the General Assembly (A/66/283), which focused on the right to an adequate and effective remedy. The annexed Draft basic principles on the right to an effective remedy for trafficked persons were based on existing international human rights law and were designed to clarify the concept of the right to an effective remedy.

2. In August 2011, during a visit to Thailand, she had noted significant progress in efforts to address trafficking in persons. An anti-trafficking law had been enacted in 2008. There was robust Government and civil society cooperation, with multidisciplinary offices in each province to address trafficking. However, implementation and enforcement were weak and fragmented. Victims of trafficking were not properly identified, leading to arrest, detention and deportation. Delays in investigation and prosecution led to long stays at shelters for trafficked persons, violating their rights to move, to earn income and to live a decent life. Root causes of trafficking, particularly the demand for cheap and exploitative labour, were not being effectively addressed, perpetuating exploitation by brokers, employers and law enforcement agents. She had recommended enhanced training for police, immigration officials, judges, prosecutors and labour inspectors, a review of labour and migration laws to acknowledge the demand for cheap, low-skilled labour and provision of safe migration options. Comprehensive, tailored assistance to trafficked persons was needed.

3. **Mr. de Séllos** (Brazil) said that anti-trafficking measures should be adopted by countries of destination as well as by countries of origin.

4. **Ms. Morgan** (United States of America) said that restitution and compensation attacked traffickers' profits, putting them out of business and reimbursing victims for back wages and victimization-related medical or counselling expenses. All countries could do more to strengthen efforts to make services available to all categories of victims.

5. The United States linked cooperation by victims to long-term immigration relief and benefits to prevent fraud and to give victims an incentive to help bring their traffickers to justice. In the United States, non-immigrant status was granted if an adult victim complied with any "reasonable request" for assistance in the investigation or prosecution of acts of trafficking, such as providing a statement to law enforcement agencies. There were exemptions for those unable to cooperate due to physical and psychological trauma. Children under 18 were not required to assist law enforcement agencies in order to be eligible for public benefits. Anti-trafficking benefits should not be tied to successful prosecution of a trafficker. Victims who chose not to cooperate with law enforcement agencies had the opportunity to pursue other forms of immigration relief. The Special Rapporteur was invited to comment further on obstacles to obtaining permanent residency or citizenship in destination countries, including in those where a reflection and recovery period was offered.

6. **Mr. De Bustamante** (European Union) asked how to improve identification of trafficked persons and of trafficked women and girls who had been subjected to gender-based violence. Further information was also requested on how best to protect trafficked children so that they could realize their right to an effective remedy and how to ensure access to information, free legal assistance and other support for victims. Details on best practices for training law enforcement officials, prosecutors and lawyers on the rights of trafficked persons would also be welcomed.

7. **Mr. Abdullah** (Malaysia) asked how to ensure that trafficked persons, especially children, understood

their rights. He also wished to know how rights were enforced for child soldiers.

8. **Mr. Komar** (Indonesia) asked how the Special Rapporteur was cooperating on protection of trafficking victims with the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women and the United Nations Office on Drugs and Crime (UNODC).

9. **Ms. Hermestad** (Norway) said that her country had worked with UNODC to establish an effective, transparent, impartial review mechanism for the Convention against Transnational Organized Crime. The Special Rapporteur was encouraged to support that process actively. Measures to increase transparency and identify illicit financial flows had contributed substantially to the fight against trafficking in persons. More efforts to freeze and confiscate traffickers' proceeds were needed.

10. **Ms. Gregg** (Liechtenstein) said that, although the Rome Statute of the International Criminal Court included trafficking in persons under its enslavement provision and the Court had jurisdiction in several countries where trafficking seemed recurrent, there had been no trafficking investigations before the Court. She wondered whether the Special Rapporteur thought that the Court should address trafficking in persons and whether, under her mandate, she had submitted any material to the International Criminal Court.

11. **Mr. Roch** (Switzerland) requested further details on return without risk and reducing the risk of repetition. Minors without families and those whose families were involved in crime were at risk of repeated abuse. The draft basic principles should focus more on minors. He wondered whether collaboration with the Special Rapporteur on the sale of children, child prostitution and child pornography was possible.

12. **Ms. Mballa Eyenga** (Cameroon) invited the Special Rapporteur to make suggestions for States whose laws banned any use of confiscated and frozen assets, as well as for those which had yet to legislate in the area.

13. **Ms. Ezeilo** (Special Rapporteur on trafficking in persons, especially women and children), responding to questions, said that countries of origin might also become countries of destination or transit. Because countries of origin were most concerned with their trafficked citizens, they were often not prepared for the challenges facing countries of destination. That resulted in unresolved questions about the legal status of trafficked persons.

14. Victims needed to help identify traffickers and aid in prosecution efforts. However, sometimes victims were told that they must cooperate immediately or else be returned to the country of origin, arrested or detained without proper identification. A law enforcement perspective alone was insufficient; redress, recovery and reintegration must be included. Sometimes victims refused to talk or told inconsistent stories owing to fear of reprisals against family members but would talk when services such as shelter and psychosocial support were provided through civil society channels. Fraudulent claims were easily identifiable but excessive attention to the negative meant that those who needed assistance might not receive it.

15. Obstacles to residence were often legal in nature, related to a blurring of the lines between migrant workers and trafficked persons. Temporary resident status was necessary for civil proceedings and compensation to go forward. Identification of victims was crucial. The International Organization for Migration, UNODC and the United Nations Children's Fund (UNICEF) had developed tools to improve identification. However, there was no deliberate effort to identify victims, because the capacity to follow up with referrals and residency rights was lacking.

16. Immigration officers should be trained to investigate the possibility of trafficking when children travelled with non-relatives. While the Convention on the Rights of the Child defined a child as someone under 18 years of age, in some cases the definition was 16. The greatest challenge was to address issues involving those aged between 16 and 18; if they were identified as children, they were diverted from the formal justice system and received greater protection.

17. The greatest obstacle to access to justice was that people were not informed of their rights and language support was therefore essential. The International Labour Organization had a manual on training labour inspectors with regard to trafficking. To make them aware of their rights, children must receive information in a form which appealed to them. Financial support for education, including cash transfers to ensure that children remained in school, would reduce trafficking.

For child soldiers, the focus was on recovery, reintegration and addressing trauma.

18. She worked closely with the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women and UNODC, as well as other mandate holders. She had met with the Special Rapporteur on the sale of children, child prostitution and child pornography to discuss collaboration and avoidance of duplication.

19. Following up on illicit financial flows and placing them in a fund to compensate victims was a valuable idea. It was important to focus on the traffickers, making their activities risky and costly. However, some States had not prosecuted a single case successfully. In dealing with proceeds of crime, transparency was important. Compensation funds for victims of violent crimes should be established.

20. The issue of trafficking had not been raised under the Rome Statute. Many people tried for war crimes had also trafficked women and sexually enslaved them, facts which should be used in their prosecution. There was no direct partnership with the International Criminal Court. Her reports would be sent to the Court so that such issues could be addressed.

21. The proceeds of crime should be used to compensate trafficking victims. Restitution was not always possible. Returning victims to their prior situation could result in revictimization. Victims who lacked opportunities at home continued to seek livelihoods and, as a result, people were sometimes trafficked two or even three times. The root causes were poverty, unemployment, gender inequality, conflict and official corruption that hindered development.

22. **Ms. Sekaggya** (Special Rapporteur on the situation of human rights defenders), introducing her fourth report on the situation of human rights defenders (A/66/203), said that in the past year she had gone on a country mission to India; presented a thematic report on the situation of women human rights defenders and those working on women's rights or gender issues to the sixteenth session of the Human Rights Council; attended the East African Human Rights Defenders Conference in Nairobi; and prepared a Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms as part of her efforts to increase understanding of the Declaration on Human Rights Defenders. The Commentary mapped out the rights provided for in the Declaration, addressed the most common restrictions and violations defenders faced and provided recommendations to facilitate States' implementation of each right.

23. The report focused on the rights and responsibilities contained in the Declaration and on the challenges faced by defenders. According to the Declaration, States must ensure the protection of the rights of defenders from violations committed not only by States but also by non-State actors. Rights instrumental for the defence of human rights included the right to freedom of peaceful assembly and peaceful protest against violations by State officials and non-State entities. In recent months, peaceful citizens who had raised their voices in various countries in support of democracy and human rights had been confronted with State violence. There was frequent use of excessive force by State agents responding to situations involving freedom of assembly and expression.

24. **Ms. Hubert** (Norway) invited the Special Rapporteur to share her thoughts on how to ensure that the Declaration was better known and applied by defenders. She asked what the Special Rapporteur hoped to achieve with the newly published Commentary to the Declaration.

25. **Ms. Schrenell** (United States of America) said that women defenders were more likely than men to be targeted by non-State actors. Retaliation took gender-specific forms such as sexual assault or rape. Human rights defenders working on issues of sexual identity and orientation were frequently stigmatized by Governments, faith-based groups and even their own families. They were often harassed and sometimes killed. More Governments should publicly voice support for the crucial services of women's rights advocates and human rights defenders working on sexual orientation and identity issues. Participants in gay pride parades should be protected.

26. **Mr. Fitzgerald** (Australia) said that events in the Middle East and North Africa had shown that human rights defenders were often the target of executions, torture, beatings, arbitrary arrest, detention or intimidation as a result of their activities. States were reminded of their responsibility to protect all individuals, including human rights defenders, who were subject to their jurisdiction. He wished for further

details on how regional organizations could help States fulfil their responsibilities to human rights defenders.

27. **Mr. Roch** (Switzerland) asked what States could do concretely to discourage criminalization of activities of non-governmental organizations and what measures could end stigmatization of women human rights defenders. How could the international community contribute to bringing perpetrators to justice?

28. **Mr. Luhan** (Czech Republic) asked how the international community should react to violations of the right of access to funding for human rights organizations and how to prevent misuse by States of information on international assistance provided to human rights organizations.

29. **Ms. Reckinger** (European Union) asked what additional efforts were needed to improve understanding of the Declaration and how States could help in that regard. She also wished to hear about best practices of States to address the specific risks faced by women human rights defenders. The Special Rapporteur stated in paragraph 87 of her report that the High Commissioner for Human Rights should develop a comprehensive strategy to protect defenders, including against threats and reprisals by non-State actors. The Special Rapporteur was invited to elaborate.

30. **Mr. Warner** (United Kingdom) expressed concern regarding proposed laws in Belarus which sought to prevent human rights defenders from accessing funding and holding peaceful gatherings, and expanded the powers of security forces. The Islamic Republic of Iran had recently handed down an 11-year sentence to a leading human rights activist, Narges Mohammadi, the executive chair of Iran's Centre for Human Rights. The Iranian authorities were urged to cease such harassment and ensure that the country's domestic legislation reflected its international obligations. There were reports that Syrian diplomats in the United Kingdom were harassing human rights defenders. The host Government had made it very clear that such behaviour would not be tolerated.

31. **Ms. Mc Breen** (Ireland) requested elaboration on the role national human rights institutions could play in protecting human rights defenders and on best practices of national and transnational corporations that had worked with local human rights defenders to develop human rights monitoring and accountability mechanisms. She invited the Special Rapporteur to comment on how States could better protect lawyers doing human rights defence work.

32. **Mr. Yahiaoui** (Algeria) said that economic, social and cultural rights were priorities for developing countries. He asked whether human rights defenders were above the law and referred to their obligation to make sure that they did not spread hate, violence and terror and act against public order and the national interest. There had been false allegations of intimidation and attacks against human rights defenders who had cooperated with the United Nations. He wondered how such false allegations could be avoided.

33. **Mr. Komar** (Indonesia) requested more information on the growing trend of violations by non-State actors and asked how States should respond. He also wished to hear more about best practices at the national level with regard to the unique challenges of women human rights defenders.

34. **Ms. Sekaggya** (Special Rapporteur on the situation of human rights defenders), responding to questions, said that the Declaration contained answers to many of the questions raised. She wanted enforcement of the rights contained in the Declaration. States should disseminate and translate the Declaration, which could provide guidance for the protection of women human rights defenders and those working on sexual orientation and identity issues.

35. Regional bodies knew what was occurring on the ground. Collaboration between the United Nations and regional bodies was therefore very useful. Such bodies could hold States accountable and use their own mechanisms to further enforce the Declaration. States should not criminalize peaceful work by human rights defenders.

36. According to the Declaration, matters of funding must be handled transparently, but a State should not restrict access to funding for human rights defenders. States must raise awareness to put an end to the risks faced by women human rights defenders. Such awareness-raising was needed for people working in law enforcement. The United Nations must develop strategies to ensure that defenders operated in a propitious environment and involve States in working out strategies to protect defenders. Some States provided hotlines and focal persons who could protect defenders.

37. National human rights institutions must investigate violations and bring perpetrators to justice. Such institutions should play a bigger protection role, as they knew circumstances within the country. They should produce annual reports for the legislative and executive branches.

38. Human rights defenders were not above the law; their activities must be peaceful, transparent and lawful. Intimidation of people who cooperated with the United Nations should be condemned. Defenders were early warning mechanisms of problems within countries. Best national practices included protection mechanisms, decriminalizing the activity of defenders, providing them with access to funds and training security forces and various stakeholders to ensure that they understood the Declaration and the role of human rights defenders and the media. There should be witness protection measures.

39. **Mr. Grover** (Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health) introduced his report to the General Assembly (A/66/254), which focused on the interaction between criminal laws and other legal restrictions relating to sexual and reproductive health.

40. **Mr. Rutilo** (Argentina) said that sexual education should be broad-based, age-appropriate and imparted without discrimination. Abortion was banned in Argentina, except in exceptional cases. His Government was not yet in a position to endorse the report as a whole.

41. **Mr. Zanu** (European Union) asked about measures to ensure and enhance access by women and girls to family planning. He inquired what measures should be taken to promote the right of children and young persons to sexual education, especially for those not in school. Persons with disabilities and lesbians, gays, bisexual and transgender people were even more vulnerable than women and girls. How could their right to the highest attainable standard of health be enhanced?

42. **The Reverend Philip Bené** (Holy See) said that the Special Rapporteur had wrongly asserted that criminal laws and other legal restrictions on abortion were a violation of the right to health, failing to take into account various international instruments that safeguarded and protected the inherent dignity and worth of persons born and unborn. The Convention on the Rights of the Child stated that children were entitled to appropriate legal protection before and after birth, and the International Covenant on Civil and Political Rights made it clear that capital punishment could not be carried out on pregnant women. There was no right to abortion under international law. The Convention on the Elimination of All Forms of Discrimination against Women made no reference to abortion. While the Special Rapporteur had mistakenly said that legal restrictions on abortion constituted a violation of the right to health, the very opposite was in fact the case. Abortion was the violation of the right to health of the unborn child and the mother. Abortion killed the unborn child and harmed the mother. It could bring about her death. It was a scientific fact that life began at conception. All induced abortions must be criminalized.

43. Parental consent must be required for all matters related to the health of children. The proposal to circumvent parental and spousal consent ran counter to the nature of marriage and parenthood and failed to take into account numerous articles of the Convention on the Rights of the Child.

44. **Mr. Schaper** (Netherlands) said the report was a key part of the Special Rapporteur's mandate. The independence of the special procedures must be vigorously maintained. It was inevitable that not all States would agree with all positions advanced, but mandate holders must feel free to do their work without fear of reprisal. It was healthy for mandate holders to challenge States (and also Observers) to re-examine their positions.

45. The Netherlands was a large donor to United Nations human reproduction research and training programmes and supported the recommendation to impose a moratorium on the application of criminal laws on abortion. The Netherlands supported implementation of the United Nations Educational, Scientific and Cultural Organization (UNESCO) 2009 International Technical Guidance on Sexuality Education. Indicators, which were quantitative and did not measure loss of dignity, must be more encompassing.

46. **Mr. Hauri** (Switzerland) said that systematic rape in armed conflict led to unwanted pregnancies, with victims resorting to illegal and harmful methods to interrupt them. Rape victims must have guaranteed access to adequate, legal health care. Switzerland

supported the decriminalization of all sexual and reproductive health behaviours, conditions and activities. Penalization was accompanied by discrimination and could be harmful to public health.

47. Early pregnancy occurred in contexts where girls had limited access to sexual education. Guaranteeing girls' school enrolment was effective in preventing early pregnancies. Local authorities had an important role to play in disseminating information on sexual education. He requested additional information on strengthening collaboration between the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the Special Representative of the Secretary-General on Sexual Violence in Conflict.

48. **Ms. Hubert** (Norway) said that public morality could not justify the enactment of laws that could lead to human rights violations. The Special Rapporteur was asked to identify some of the major challenges in that regard. Restrictive laws should be eliminated so that Millennium Development Goals 3, 4, 5 and 6 could be achieved.

49. **Mr. Errázuriz** (Chile) said that his country shared the conclusions of the report regarding the autonomy of women and the obligation of States to disseminate information on sexuality and guarantee effective access to family planning. Chile did not recognize abortion. A greater effort on the part of the Special Rapporteur to understand views on the interaction between the right to life and abortion would have been appreciated. The Constitution of Chile provided protection for life from the time of conception.

50. **Ms. Phipps** (United States of America) said that family planning was essential to meeting broader development goals. Helping women space births and avoid unintended pregnancies could prevent 25 per cent of maternal and child deaths in the developing world. Family planning was the most effective way to prevent abortion and unplanned pregnancies.

51. **Mr. Verbrugghe** (Belgium) said that the special procedures were the eyes and ears of the Human Rights Council and must enjoy complete autonomy and independence. Ten years earlier, Belgium had issued a standing invitation to special procedures mandate holders and encouraged other States that had not yet done so to issue similar invitations.

52. **Ms. Martensson** (Sweden) requested information on how restrictive laws affected boys and men and their enjoyment of the right to health and on how criminal laws and other legal barriers related to reproductive health generated and reinforced gender stereotyping.

53. Conscientious objection laws could make legal health care services inaccessible. The Special Rapporteur was invited to discuss how conscientious objection laws could be compatible with States' obligation to ensure the right to health. She asked about the root causes of severe restrictions in some States which curtailed access to family planning and what steps States should take to implement the recommendations of the Special Rapporteur.

54. **Ms. Kalamäki** (Finland) asked for the Special Rapporteur's views on the role of men and boys in promoting the highest attainable standard of health for women and girls. In addition to decriminalization of abortion, she asked about other best practices to ensure the right of women and girls to the highest attainable standard of health and control over their own bodies.

55. **Ms. Mndebele** (Swaziland) said that the Special Rapporteur had largely ignored his mandate, focusing on a non-existent right to abortion. The universal right to health recognized in international instruments did not include abortion. His recommendation undermined paragraph 8.25 of the Programme of Action of the International Conference on Population and Development, which stated that in no case should abortion be promoted as a method of family planning. Governments and intergovernmental and non-governmental organizations were urged to deal with unsafe abortion as a major public health concern and reduce recourse to abortion through improved family planning. In circumstances where abortion was not against the law, it should be safe, and there should be quality services for management of complications arising from abortions. Post-abortion and family planning should be offered promptly to avoid repeat abortions.

56. The Constitution of Swaziland prohibited abortion except in extreme circumstances where the pregnancy posed a serious threat to the life of the mother or child. Abortion was not a right and should not be accessible on demand.

57. **Ms. Malefane** (South Africa) requested the Special Rapporteur's advice on interventions to address challenges such as HIV and AIDS.

58. **Ms. Mortensen** (Denmark) said that it was striking that the report documented that the Millennium Development Goals could not be achieved without decriminalizing abortion and removing restrictions on sexual and reproductive health care. Reduction of unsafe abortion was one of the most important ways to lower maternal mortality. Nearly all deaths from unsafe abortions were preventable. Safe access to abortion must be guaranteed.

59. The report clearly demonstrated that restrictions on abortion violated the right to health. Denmark agreed that morality could not serve as the justification for laws that might result in human rights violations. Public health was undermined, not realized, by criminalization. The report fully complied with the mandate of the Special Rapporteur. She asked the Special Rapporteur what steps should be taken to implement the recommendations in his report and how criminal laws related to reproductive health reinforced gender stereotypes, inequality and stigmatization. She also requested further details on how reproductive health indicators could be improved to take into account both health and rights issues.

60. **Ms. Toure** (United Nations Population Fund (UNFPA)) said that the report built on existing references and analysis, including the International Conference on Population and Development Programme of Action, the Beijing Platform for Action and Human Rights Council resolutions. The report highlighted that poor and marginalized women and girls were denied health care and the ability to make decisions about their own health. The right to sexual and reproductive health rested on recognition of the basic right of all to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so. It included the right to make decisions concerning reproduction free from discrimination, coercion and violence and underpinned the provision of family planning services and efforts to prevent child or coerced marriages, violence against women, unsafe abortion and sexually transmitted diseases. Sexual and reproductive health services should be accessible to all, including adolescents, unmarried women, indigenous people, migrants and refugees.

61. **Mr. Selim** (Egypt) said that his delegation was concerned about systematic attempts to reinterpret internationally agreed instruments in which the right to health had been defined very clearly. While the Millennium Development Goals were a tremendous challenge, especially for developing countries, the proposals for decriminalization were relevant to only a few of their components. The Special Rapporteur should point out other more important interventions needed for achievement of all the Millennium Development Goals, not just one or two of them. Attempts to derive new rights from the right to health raised some concerns.

62. **Ms. Sánchez** (Honduras) said that her delegation endorsed the remarks made by the representative of Chile.

63. **Mr. Grover** (Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health) respectfully disagreed with those, such as the representative of Swaziland, who said that he had exceeded his mandate. Approximately 44,000 women died each year owing to unsafe abortions. If that did not concern the right to health, nothing did.

64. It was inaccurate to say that he was articulating a right to abortion. The question was how to achieve the right to health for women. If criminalization of abortion was a barrier to health for women, it must cease. Criminalization had a chilling effect on services provided. Data from various countries showed that, as soon as activities were decriminalized, services became available. The right to life from the time of conception versus the right to health was a false debate. The right to health gave a different and correct approach for rethinking how to achieve Millennium Development Goals.

65. There was no denial of abortion in international law. The right to abortion was part of the right to health where circumstances warranted. Regional and international instruments did not say that there was no right to abortion, contrary to what opponents of the report had said.

66. Criminalization undermined the dignity of the person undergoing the act deemed criminal. It impeded health services and deprived health care providers of access to evidence-based information. A comprehensive strategy of family planning, contraception, education and evidence-based information would result in fewer deaths and abortions. Decriminalization of abortion was one of the most important measures for States to adopt in order to achieve the Millennium Development Goals.

The meeting rose at 1.05 p.m.

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The meeting was called to order at 3.10 p.m.

Agenda item 69: Promotion and protection of human rights (*continued*) (A/66/87)

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1. **Ms. Albuquerque** (Special Rapporteur on the human right to safe drinking water and sanitation), introducing her report to the General Assembly (A/66/255), said that today there were 2.6 billion people without access to improved sanitation and almost 1 billion without access to improved water sources. The world was on course to achieve the first target of the Millennium Development Goal (MDG) to halve, by 2015, the proportion of the population without sustainable access to safe drinking water but not the second concerning access to basic sanitation. However, even attaining the drinking water target would still mean that around 700 million persons would not have access to improved water sources.

2. Moreover, the indicators used to assess the MDGs did not adequately capture the real situation, and a recent study carried out in five countries found that 57 per cent of water supplied from protected wells and 11 per cent of tap water did not comply with microbiological quality standards. Current indicators did not adequately reflect whether water was accessible and affordable, and whether human waste was properly disposed of. There was still much to be done to ensure that water and sanitation were available, accessible, safe and affordable for all without discrimination.

3. Some of the considerable challenges to the realization of the rights to water and sanitation had been addressed in her previous annual reports; she had therefore decided to focus on the issue of the availability of financial resources in the current report, as it would cost money to ensure universal access to water and sanitation and many stakeholders blamed their failure to realize those human rights on a lack of resources. The report addressed three main questions: whether there were sufficient resources to realize the rights of access to water and sanitation; whether those resources were targeted effectively; and, whether the actual amount of resources was known.

4. A study by the World Health Organization (WHO) and United Nations Development Programme (UNDP) estimated that it would cost over $16 billion per year to achieve universal access to water and sanitation by 2015. However, that was less than military spending around the world over eight days and less than the amount spent in rich countries on mineral water in one year. Although many Member States had to contend with limited resources, particularly in light of the current economic crisis, the human rights framework required them to move expeditiously towards realizing the rights to water and sanitation, using the maximum available resources. Therefore, States must mobilize resources from different sources of financing, namely household and user contributions, local or national taxes, government funding and international aid.

5. Charges to be paid by users should be affordable, particularly for those living in poverty, with a possible safety net in place for those who could not afford to pay or who could only afford to pay a minimal fee. Investing in water and sanitation made sense from an economic perspective and had a significant impact on the realization of other human rights, notably resulting in improved health, reduced child mortality, increased productivity of adults and school attendance of children, a positive effect on women's rights and reduced environmental degradation. Each dollar invested in water and sanitation led to an average return of eight dollars in terms of saved costs and productivity gains. Providing persons with access to water and sanitation gave them dignity, which had a considerable effect on their well-being.

6. Although additional resources were needed to realize those rights, more could be achieved if existing resources were better spent. The report outlined three basic considerations for the allocation of resources, namely targeting those who still did not have access to water and/or sanitation; eliminating disparities in access; and, contributing to long-term sustainability, by optimizing resources and providing the necessary physical and regulatory infrastructure.

7. There were six areas where financing could and should be better targeted. Firstly, Member States should adopt policies and programmes that prioritized the most vulnerable and marginalized communities, and international aid donors should ensure that water and sanitation programmes that they financed benefited the most disadvantaged. Secondly, investment in low-cost, high-efficiency technologies could dramatically reduce the amount of funding required and improve service for all. Thirdly, Governments must invest in the operation and maintenance of water and sanitation facilities, as it was significantly more cost-effective than rehabilitating them or building new ones.

8. Fourthly, more resources needed to be made available to build institutional and human capacity at the local level, as local authorities were increasingly responsible for providing water and sanitation services, according to national regulations. Fifthly, a clear legislative and regulatory framework should be implemented, with precise targets. The framework should clarify and harmonize the responsibilities of the different stakeholders; set minimum standards for quality, accessibility and affordability; and, ensure accountability through monitoring and incentives for compliance. Finally, Member States had an obligation to educate their citizens about the hygienic use of water and sanitation services and to inform them of their rights. That could lead to greater demand for and better and more sustainable use of those services, which in turn would encourage Governments to do more to ensure access.

9. In order to ensure more adequate funding and better targeting, Member States must track the availability and use of resources accurately. However, there were a number of obstacles to achieving that goal, notably institutional fragmentation, a lack of transparency, and the absence of monitoring mechanisms for individual contributions. Governments should coordinate the work of different stakeholders at all levels and adopt comprehensive sector-wide policies on water and sanitation to avoid wasteful duplication of services and unnecessary costs. The problem of transparency was linked the absence of detailed national budgets.

10. Specific water and sanitation initiatives were taking important steps towards better monitoring of financing and improved access to information for individuals and institutions. Finally, establishing mechanisms to monitor individual and household contributions would indicate what assistance specific sectors of the population required in order to ensure access to water and sanitation. The General Assembly had explicitly recognized the right to water and sanitation in 2010. Making that right a reality, particularly for those billions of persons who still did not have access to safe drinking water or sanitation, would require considerably more resources targeted to achieve the best possible results.

11. **Ms. Robles** (Spain) said that in September 2011 the Human Rights Council had adopted by consensus resolution 18/1 on the human right to safe drinking water and sanitation, which had been sponsored by many Member States, particularly from Africa. However, although those rights had been recognized and the legal framework put in place, it was necessary to ensure that they were respected and realized. She asked to what extent the implementation of national or local action plans, with a human rights perspective, could help to improve the use of funds in the water and sanitation sectors and whether more should be done to ensure greater focus on human rights within the development agenda, particularly after 2015?

12. **Ms. Espósito Guevara** (Plurinational State of Bolivia) said that the main challenge was the full implementation of the right to safe drinking water and sanitation and that the main obstacle to its realization was the lack of available financial resources. Financing the implementation of that right should come primarily from the public sector, not the private sector. Financing models that prioritized profit over common welfare were not compatible with the right to water, as it was a basic human necessity for life and should not be used to make a profit. A sixth of the world's population lived in extreme poverty and simply did not have the necessary resources to be able to pay for the right to water. Therefore, she asked what was meant by accessibility. Although there was a need for greater transparency, not only on the part of States but also private utilities companies, it was incompatible with the right to water to have legal frameworks in place that protected private companies from public oversight of their finances.

13. **Mr. Zaru** (Observer for the European Union) said that access to safe drinking water and sanitation was essential to allow persons to live healthy and dignified lives. All countries bore a responsibility to ensure that everyone enjoyed their full human rights and that they had equal access to health care,

education, drinking water, sanitation and other basic services. He asked for further details on the water and sanitation initiatives, WASHCost and the UN-Water Global Annual Assessment of Sanitation and Drinking-Water, as well as examples of best practices in the area. He also enquired what specific challenges faced women with regard to access to water and sanitation and whether gender-specific aspects and non-discrimination would be the focus of future reports.

14. **Mr. Hauri** (Switzerland) said that the prioritization of sanitation was above all a question of the Government's political will. He asked why the important and opportune "Sanitation and Water for All" initiative had not been mentioned in the conclusions and recommendations of the report. Sanitation was also a matter for the private sector, but the report did not refer to that sector. Under the supervision of the public authorities, the private sector could and should contribute to the realization of the right to water and sanitation.

15. **Mr. Schroeer** (Germany) said that, in 2011, the lack of access to safe drinking water and hygienic toilets killed more children than malaria, measles and HIV/AIDS together. Investing in safe drinking water and sanitation for all was an obligation for States under international human rights law. His country deemed it crucial to work in a joint, cross-regional effort towards the full implementation of that right and, therefore, had initiated, with Spain, a cross-regional group, based in Geneva, to promote the implementation of the human right to safe drinking water and sanitation. He asked what States could do to ensure that those persons most in need were reached and that regulations were carried out effectively.

16. **Mr. Komar** (Indonesia) said that his country continued to fulfil the right to water and sanitation through various national and local plans and programmes. The proportion of households that had access to safe drinking water and sanitation in Indonesia had increased in the past decade. One of the best methods to fulfil that right was to increase community participation through education on how to access and use hygienic water, protect water sources, and minimize wastage. Healthy and hygienic living should be promoted through advocacy and capacity-building.

17. Indonesia had implemented learning models on the effective use and conservation of water resources and introduced environmental sciences at all educational levels. His Government had also launched drinking water supply programmes and community-based sanitation activities, which included supplying poor rural communities with safe drinking water and basic sanitation facilities. He asked how adequate resources for the fulfilment of the right to water and sanitation could be linked to climate change adaptations.

18. **Ms. Nama** (Cameroon) said that her Government was aware that access to water was fundamental for the urban and rural population. As a result of those concerns, it had agreed to the request by the Special Rapporteur to visit Cameroon and hoped that the visit would take place in 2012.

19. **Mr. Yahiaoui** (Algeria) said that the issue of water and sanitation was of particular importance for his country and for the African continent as a whole. His Government was convinced of the important role played by the Special Rapporteurs and had therefore extended an invitation to various special mandate holders, including Ms. Albuquerque. Her visit would allow her to see for herself the efforts that were being made by his Government to realize the right to water, although the lack of precipitation had not helped matters. The ambitious water transfer project in the south of the country from Ain Salah to Tamanrasset, which was now fully functioning, was an example of the major investments in the field. Women and children were primarily affected by a lack of water, particularly in rural areas. Besides guaranteeing sufficient financing, national water policies should provide protection for women and children.

20. **Ms. Albuquerque** (Special Rapporteur on the human right to safe drinking water and sanitation) said that a human rights perspective within national action plans could help to improve access to water and sanitation, as it allowed plans to be better tailored to the particular national situation and investments to be targeted at rural areas, poor urban areas, illegal settlements and areas without access. Investing in areas that did not have access to water was a much more intelligent use of resources and had a much greater impact than other interventions.

21. Regarding the discrepancies between the human rights perspective and the development perspective, human rights were more demanding and closer to people's needs. Statistics showed that many countries had made enormous progress in providing access to water and sanitation, but, upon closer examination, it

became clear that those who had benefited most were the richest members of society. A human rights perspective would ensure that the focus of any initiatives would be those members of the population who were most in need, who were left behind under policies that focused on development targets. That was the case in both developing and developed countries, where discrimination against certain sections of society meant that they did not have access to basic sanitation. Moreover, under the MDGs it did not matter if the water supply was sustainable, but from a human rights perspective that was a prime consideration, because if provision is interrupted it could be seen as a retrogression in the fulfilment of that human right, or even as a human rights violation.

22. The lack of financial resources was not the biggest obstacle to the realization of the right to water and sanitation. The biggest obstacle was lack of political will. Even with the insufficient funds available at the moment much more could be done to implement that right. In her experience, States failed to prioritize those members of society who were most in need. Affordability was an issue and should be taken into account under the MDGs and in the post-2015 development framework. It was important to find a way to measure discrimination in access to water and sanitation, as well as the affordability and quality of water and sanitation provision.

23. She was leading a task force on non-discrimination that was seeking to identify new indicators and had commissioned a report to select indicators to monitor affordability. She recalled that she had recently presented a compendium of good practices. As she had received so many contributions from States, she had decided to publish a book, which would be more detailed and comprehensive than her initial report. She tried to look into gender issues during her country visits and to integrate gender concerns into her reports. In her next report for the Human Rights Council she intended to look into the issue of stigmatization of specific groups.

24. The conclusions and recommendations of her report had been targeted at States, which did not mean that she did not believe that the private sector had a role to play. In fact her 2010 report to the Human Rights Council (A/HRC/15/31) dealt precisely with non-State service provision. Moreover, some of the recommendations in her current report could be applied to the private sector. She considered that her reports should be read in conjunction with each other and not in isolation.

25. In order for States to ensure that those most in need were provided with access to water and sanitation, Governments had to know the true situation on the ground. It was often the case that official statistics did not reflect reality. Of course, it was also important to recognize the right to water and sanitation in legislation, to draw up a national plan of action to realize that right, establish mechanisms to investigate alleged violations of that right, and integrate human rights perspectives into the national budget. But without a true picture of access to water and sanitation, it was impossible to devise a specific and effective action plan to help those most in need.

26. **Mr. de Schutter** (Special Rapporteur on the right to food), introducing his interim report to the General Assembly (A/66/262), said that the food price crisis of 2007-2008 had led to the prioritization of agriculture within the political agenda, financial pledges and to the reform of the Committee on World Food Security. Moreover, the right to adequate food was increasingly acknowledged as key to sustainable solutions to overcome global hunger. However, although the prices of basic food commodities were stable, they remained high in comparison to the past decade. Farmers were not being encouraged to invest in production, and the social protection systems of many countries were being severely tested.

27. As a result of political marginalization and a lack of bargaining power, most small-scale farmers and their workers were not benefiting from the current price spikes. It was expected that, in future, food prices would be increasingly volatile and higher, particularly as a result of climate disruptions, increased competition for land and water, and speculation on both the physical and financial markets. But Governments, in particular in developing countries, could prevent those shocks leading to increased levels of hunger and malnutrition by choosing to strengthen their domestic agricultural sectors so that they are less reliant on food imports.

28. The food import bills of many poor countries had multiplied five- or six-fold, not only as a result of population growth but also because of a lack of investment in domestic agricultural production. Those countries were vulnerable to price shocks on the international markets and to currency exchange

volatility. Too often in the past, Governments had been concerned with providing affordable food to urban consumers, which was understandable and legitimate, but cheap, subsidized food imports crowded out local producers from the market, thereby increasing rural poverty while only providing a stop-gap solution to the problem of chronic hunger.

29. To improve the ability of developing countries to feed themselves, support must be given to the largely untapped potential of small-scale farmers. The key challenge was how to move from a system that ruined small-scale farmers in order to feed the cities, to a system that provided better incomes for rural households, thereby slowing rural migration, improving bargaining power for urban workers and creating multiplier effects for the local economy in other sectors. That question had led him to explore how to transform food chains to make them more inclusive and equitable in his interim report. He had concluded that authorities had to facilitate smallholders' access to markets on equitable terms if they wanted to increase agricultural productivity and enable farmers to achieve an adequate standard of living from agriculture.

30. Contract farming was often seen as one way to improve small-scale producers' access to markets and credit and provide them with a relatively stable income. However, how much choice did farmers really have if their only access to markets was through a single dominant buyer? A fair contract should include minimum price guarantees, a visual demonstration of quality standards, inputs at or below commercial rates, appropriate dispute settlement mechanisms, and the possibility for farmers to reserve a portion of land for food crops to meet the needs of their families and communities.

31. Without those checks and balances, produce could be summarily rejected by the buyer under various pretexts; farm debt could spiral; labour could be subcontracted without regulatory oversight; and, a region's food security could be undermined by the production of export-oriented cash crops. Studies showed that contracts were often signed by men, even when most of the work was performed by women and that decisions tended to be made by men where cash crops, rather than food crops, were produced. As Governments were duty-bound to respect, protect and fulfil the rights to food and to an adequate standard of living, they should support farmers' ability to negotiate fair deals and ensure that farmers were not being manipulated, particularly be providing them with direct access to technical know-how, inputs, distribution circuits and markets.

32. He had also examined other development models and concluded that farmers should be encouraged to consider forming cooperatives and joint ventures, in order to gain access to markets, without losing power over their land and livelihoods. Collective ownership was not immune to the risks of manipulative investors or poor leadership, but farmers must be empowered to consider other business models. Furthermore, local food markets should be strengthened and links between local producers and urban consumers improved, through the use of direct-to-consumer marketing. That approach, although still relatively marginal, had made spectacular progress in developed countries in recent years, where it was often linked to increased consumer demand for organic, local produce. It provided farmers with a guaranteed outlet for their produce and stable revenues.

33. Lastly, it was essential to improve small-scale farmers' access to markets and their bargaining position in food chains in order to make progress in realizing the right to food. That right was not simply a matter of boosting supply to meet growing needs. It also addressed the issues of who produced that food, for whom and under what conditions to allow the vast number of small-scale farmers in developing countries to reach their full potential.

34. **Mr. Zaru** (Observer for the European Union) asked for further details on the importance of contract farming and other business models, and the need for a human rights approach, especially with regard to women, within those models in order to realize the right to food. He also requested examples of the role that private enterprises should play in realizing the right to food, particularly with regard to introducing good practices in their dealings with small-scale farmers. He queried whether fair-trade schemes, which focused on pricing, could help to realize the right to food for both producers and their communities and what measures, in line with the recommendations of the report, could ensure that the difference between the farm-gate price and the retail price remained within a reasonable margin.

35. **Ms. Ratsifandrihamanana** (Food and Agriculture Organization of the United Nations (FAO)) said that the question of high food commodity prices had been

thoroughly addressed in the recent FAO publication *The State of Food Insecurity in the World 2011*. In October they would commemorate World Food Day on the theme "Food prices — from crisis to stability", which had been chosen to highlight a trend that was harming consumers, small producers and farmers in general. She also highlighted the Right to Food Guidelines, which had been adopted to support the progressive realization of the right to adequate food. The Guidelines had played a crucial role in expediting the move from political commitment to a human rights-based approach in food security work. Action had already been taken in Latin America, Africa and Asia, particularly in the fields of advocacy, policymaking, legislation, monitoring, assessment and the strengthening of institutions.

36. In order to further consolidate and successfully mainstream those efforts, continuous, well-informed and grounded action was required in line with the Right to Food Guidelines. FAO had recently published a book on lessons learned in the implementation of the right to food, entitled *Right to Food — Making it Happen. Progress and lessons learned through implementation*, which offered valuable insights and practical guidance on how to put the human right to food into practice through human rights-based development efforts. It also facilitated the exchange of knowledge, lessons learned and best practices based on five country case studies.

37. The right to food approach with regard to food security could provide important support to efforts geared towards achieving MDG 1: Eradicate extreme poverty and hunger. Governance issues, including the right to food and general human rights principles, must be considered when addressing the global food crisis; which also meant taking into consideration the rights of smallholder farmers and other rural poor persons. The focus on increased food production in certain aid programmes was necessary but not sufficient. More attention should be paid to the right to food in emergencies and to newly emerging issues, such as soaring food prices, biofood, genetically modified organisms, speculative activities and climate change would all impinge on efforts to realize the right to food.

38. **Mr. González** (Mexico) said that he wished to thank the Special Rapporteur for his visit to Mexico and for the constructive dialogue that had been held with the relevant national institutions. Mexico attached great importance to the right to food and had made considerable efforts in the field, which had led to the improvement of key indicators within the framework of the MDGs, in particular those linked to reducing the number of children aged under five who were underweight. To that end, his Government had implemented social programmes to ensure the affordability and availability of a balanced diet.

39. In October 2011, a constitutional amendment had been promulgated guaranteeing that everyone had the right to nutritious, sufficient and quality food. Furthermore, under article 27 of the Constitution, the State guaranteed the adequate and timely supply of staple foods as established by law. Finally, he welcomed the offer by the Special Rapporteur to provide technical assistance for the implementation of the constitutional reforms with regard to the right to food.

40. **Ms. Mc Breen** (Ireland) noted that the contract farming business model had gained importance in recent years in both developed and developing countries, and that a considerable number of smallholder farmers had joined such schemes to gain access to markets and increase their incomes. While that might benefit some, particularly medium- and large-scale farmers, her Government was concerned that poor small-scale farmers and the most marginalized smallholders in developing countries, who might be illiterate or in a weak bargaining position, lacked the requisite skills to defend their rights and did not benefit from such contracts in their current form, as they were heavily biased in favour of the buyer.

41. Moreover, contract farming often led to specialization in cash crops, which resulted in a move towards monocropping and production methods that relied heavily on chemical fertilizers and pesticides. That could lead to a loss in biodiversity, discourage crop diversification and increase soil erosion, all of which were very important challenges in the context of climate change. Therefore, she asked whether the inclusion of green economy strategies and policies could play a role in ensuring climate justice in that regard. Finally, given that in many cases contract farming was not gender-sensitive, she asked how that negatively affected the nutritional level of household members, especially infants, children and mothers. Since the right to food also concerned nutrition, it was important to take that into consideration.

42. **Ms. Valle** (Cuba) said that the current global food crisis that had increased prices had had a negative effect on the realization of the right to food in developing countries and had led to an increase in poverty. The crisis had been caused by various factors, but the most significant were inequality, the unjust distribution of wealth globally and the unsustainable neo-liberal economic model. It was necessary to boost trade and lift restrictions the prevented the access of agricultural produce from Third World nations to markets in developed countries. Governments should support the realization of the right to food as best they could with the available resources, as the report suggested. She expressed her delegation's support for the work of the Special Rapporteur and said that Cuba would present the draft resolution on the right to food.

43. **Mr. Meyer** (Norway) said that individuals involved in contract farming and other business models often ran great personal and financial risks, and he welcomed the fact that the report had identified seven key areas on which Governments and firms could focus to ensure that their policies were in line with the right to food. Several of the same principles could be used to promote sustainable fisheries and the right to food for contract fishermen. Pricing mechanisms should be clear and transparent and ensure that producers were guaranteed a fixed minimum price based on the need to meet production costs and to ensure a living wage for all workers. He asked for further details to be provided on the recommendation on gender equality and welcomed the important contribution by the Special Rapporteur to the final negotiations on the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests, which would be a useful tool in the work to protect and enhance women's land tenure rights.

44. The seventeenth session of the Commission on Sustainable Development had also produced useful texts on women and land tenure. He asked how the international community could strengthen, not only women's formal land rights, but also their decision-making power over a plot of land. In view of the important role played by civil society organizations, farmers' organizations and tenant cooperatives in defining and promoting the right to food among contract farmers, he wished to know how States and companies could best ensure access to information by those stakeholders and what role organizations could play in the development and follow-up of contracts.

45. **Ms. Nama** (Cameroon) said that her Government had adopted a number of measures with regard to agriculture and food prices. She underlined the role of the Ministry of Scientific Research and Innovation, which was responsible for ensuring adequate and sufficient food for the population of Cameroon. The work of the Ministry was carried out through the Institute of Agricultural Research for Development, which addressed the concerns of the different actors in that field; carried out research into animal and plant production, aquaculture, the environment and forests; developed innovations in food production and technology in the food industry; and made available improved seeds, adapted to the different farming and ecological environments in Cameroon. Her country, together with its development partners, had distributed seeds and plants to farmers' associations.

46. The economic liberalization policy adopted by her country in the 1990s had had a disastrous effect on the population. In an attempt to protect consumers' rights and to combat unjust business practices, her Government had adopted a new Consumer Protection Act in May 2011. The Act applied to all transactions concerning the supply, distribution, sale and exchange of technology, services and goods. Cameroon had also taken steps to combat the high cost of living, with traveling sales caravans promoting mass consumption products and test shops. Lastly, she hoped that the Special Rapporteur would visit her country and was sure that the resulting dialogue would inspire her Government.

47. **Mr. Hotton** (Argentina) said that, while contract farming offered farmers certain advantages, such as a guaranteed market and production inputs, it also posed a number of risks, notably the lack of economic and business independence and abusive contracts. Often the buyers had the advantage under such contracts and used contract farming as a way to reinforce their control of the supply chain. Contract farming was a useful tool and had been used for many years in Argentina, particularly with regard to the realization of the right to food, but it was not the ideal model as it could be used to cover up regulation of the market by large food companies, which led to unfavourable situations and the monopolization of a production sector. In addition to State regulation to prevent monopolization, he asked what could be done to provide farmers with the tools and education to defend their rights.

48. **Mr. Yang** Chuanhui (China) said that there was currently a shortage in the global food supply. Food security was far from being ensured, and there was a long way to go to protect and promote the right to food. Efforts in research and in promoting the right to food and the right to survival should be intensified by the United Nations and the international community. Countries should also be urged to pay attention to food production and to raise their food production capacity. Developed countries should be encouraged to provide developing countries with food assistance to help to solve the food problem of vulnerable populations. The international community should intensify its financial and technological assistance, increase agricultural investment, improve agricultural infrastructure, raise the level of agricultural technology, and help developing countries to solve food problems at the source in order to fully realize the right to food.

49. His country, with 6 per cent of the world's fresh water and 9 per cent of its farming land, had met the food and clothing needs of its population, which accounted for 20 per cent of the world's total, and had already achieved MDG 1, eradication of extreme poverty. His Government had also recently provided disaster-stricken countries in the Horn of Africa with emergency food relief and 443.2 million yuan and was willing to participate in exchanges with the international community to realize the right to food.

50. **Ms. Malefane** (South Africa) asked the Special Rapporteur how States could contribute to the promotion, protection and practical realization of the right to food.

51. **Mr. Komar** (Indonesia) said that Governments should ensure that contract farming benefited small-scale farmers and contributed to the betterment of their welfare. As an agrarian country, Indonesia was committed to improving the welfare of farmers, especially small-scale farmers. To that end, the Ministry of Agriculture had taken various steps to improve the livelihood of farmers as one of the strategic objectives of its plan of action for 2010-2014. Having taken note of the advantages of contract farming, the Ministry had incorporated it as one of the tools to provide small-scale farmers with a better income.

52. Contract farming had the potential to bring about greater benefits, both for food corporations as buyers and small-scale farmers as suppliers. In that regard, his Government had acted as facilitator, mediator and regulator in order to enhance farmer's technical and managerial skills, facilitate the provision of working capital for farmers and business meetings, conduct research and development, and extend new technology to farmers. Lastly, he asked how Governments could intervene in order to promote greater participation of women in contract farming.

53. **Mr. Quintaes** (Brazil) said that his country was cooperating within several mechanisms to enhance world food security. Within the India, Brazil and South Africa (IBSA) initiative, small projects in various countries had been undertaken to meet the needs of specific communities. As part of the World Food Programme, Brazil had made a sizable contribution to the least developed countries (LDCs). He expressed his country's commitment to assist the Special Rapporteur in his work and invited him to visit Brazil.

54. **Mr. Yahiaoui** (Algeria) said that, like Cameroon, his country had extended an invitation to the Special Rapporteur and hoped that the visit would take place in the near future so that he could see for himself the steps taken by the Algerian Government to extend that fundamental human right to all citizens, in particular by subsidizing basic foodstuffs, supporting small-scale farmers, providing them with credit, pesticides and other necessary materials and involving them in the national agricultural policies. Since the prices of basic food items were decided by international stock exchanges, small-scale farmers had no influence over them whatsoever. Therefore, he asked what could be done to protect main food items, such as rice, corn and wheat, from extreme price fluctuations and increases.

55. **Mr. de Schutter** (Special Rapporteur on the right to food) said that Cuba would launch the discussion on the draft resolution on the right to food to be adopted by the General Assembly. He would welcome resolutions that were more focused on the topics of the report, as they were more useful and encouraged the pursuit of particular recommendations made in the report, which would make the discussions more fruitful and strengthen support for his work. He hoped that the report would have highly practical consequences for the Member States.

56. His report contained seven very concrete recommendations that attempted to seize the opportunities created by contract farming while reducing the risks for those small-scale, often illiterate, farmers who joined those schemes. Firstly, that the contracts

should be sufficiently equitable to ensure that they were viable in the long term, taking into account the constraints of both parties. Governments had a role to play in that respect, by providing advice to farmers, producing model contracts to help farmers strengthen their negotiating position, and screening contracts to ensure that there was no bias and that the interests of both the producer and the buyer were treated equally.

57. Secondly, Governments, NGOs and development cooperation agencies should support farmers in negotiations to strengthen their capacity so that they were better organized and had access to legal advice. Thirdly, gender was a concern raised by many delegations. An FAO report published in 2010 showed that the chances of children being malnourished were reduced by 20 per cent when the woman rather than the man decided on how the household revenues should be spent. Women tended to be more attentive to the children's health and educational needs and the nutritional needs of the family. Therefore, it was important to ensure that the contracts were in the names of both the man and woman, and that the money paid for crops was given to both of them, so that the woman could decide how it should be spent. There were cultural obstacles to be overcome, but such discrimination must be eliminated.

58. Fourthly, and most importantly, the pricing mechanism must be correct. In many contracts all the risk was borne by the producer. For contract farming to work well it should guarantee minimum prices to the producers to ensure that they could make a decent living and meet family expenses, such as health care, education and housing. Moreover, when the market price went up, farmers should be awarded a premium so that they also benefited from those increases. Such terms and conditions would also ensure stability of supply for buyers. It was, therefore in the interest of both buyers and sellers to have fair prices and guaranteed incomes for farmers. Many buyers had an interest in buying loyalty, and loyalty had a price. Loyalty meant a fair price indexed on the market price. It was not a utopian dream; similar schemes had already been implemented, notably in Madagascar.

59. Fifth, quality standards could be manipulated by buyers, putting producers at a disadvantage. Governments had a responsibility to ensure that all such abuses were addressed through grievance mechanisms and to monitor those processes in order to guarantee fairness. Sixth, it was true that contract farming often led to monocropping, which was not a good ecological practice as it could destroy the soil and discourage diverse farming systems. Contract farming should encourage crop diversity with farmers being encouraged to dedicate part of their land to producing food crops for their own food security, Increasingly, buyers should encourage producers to practise agro-ecological methods of production which were increasingly demanded by consumers in high value countries. Finally, Governments had a responsibility to provide farmers who had been cheated under such contracts with access to remedies.

60. He welcomed the fact that a number of countries that he had visited recently, namely South Africa, Mexico, Brazil and China, had engaged constructively with the mandate. His country missions were essential to his work, and he had benefited from very high levels of cooperation from all those countries, although his assessments were sometimes difficult to hear as they drew Government's attention to some blind spots that they might prefer to ignore. For example, his mission to Mexico, where the right to food was a constitutional right, had highlighted a paradox in that country: while there were significant numbers of very poor people who were malnourished, 70 per cent of the adult population was overweight or obese.

61. Obese persons were unwell for an average of 18 years as a result of their weight. In South Africa, 56 per cent of adult women were overweight. Such findings had led him to dedicate his next report to the Human Rights Council to the issue of obesity. He also intended to study the question of fisheries, in particular whether fishing resources were managed sustainably and whether current governance of fishing systems was adequate. That report would be presented to the General Assembly next year, based on the consultations on that issue to be held in Nairobi in April next year.

62. He had listened very carefully to the comments by FAO with regard to the voluntary guidelines on the progressive realization of the right to food in the context of national food security. Recently, there had been reports concerning countries, such as Brazil, Peru, Bangladesh, Malawi, and Mozambique, where much progress had been made in realizing the right to food and as a result child malnutrition rates had been significantly reduced over the past five years. Those reports and recent studies by different agencies showed that political will was the single most important tool in combating hunger and malnutrition.

63. Political will, combined with intersectoral approaches to coordinate the actions of different ministries, the participation and empowerment of civil society organizations, government accountability, and the independent monitoring of government commitments, had helped to reduce hunger and malnutrition in those countries. The right to food was not a luxury; it was an essential tool in national strategies to combat food insecurity. With the assistance of the Member States and FAO, he would continue to emphasize the importance of governance, institutions and accountability in fighting hunger and malnutrition.

64. **Mr. Singh** (Special Rapporteur on the right to education), introducing his interim report to the General Assembly (A/66/269), said that a lack of adequate investment was a major constraint on the realization of the right to education and, as a result, the prospects of achieving the MDG of universal primary education and eliminating gender disparity at all levels of education were bleak. Public expenditure cuts as a consequence of the global financial crisis could affect education spending further. In that regard, he stressed that States parties were obliged to ensure financing for education under the provisions of numerous international human rights treaties, even if they did not prescribe specific financing mechanisms.

65. In accordance with the principle of progressive realization, investment in education must be driven by the need to ensure the continued expansion of the sector. Above all, States must comply with their core obligation to provide free, universal primary education and adopt and implement a national educational strategy that included secondary and higher education. A framework for international assistance and cooperation was in place to help least developed countries achieve education targets.

66. The adoption of appropriate legal instruments made it possible to ensure better investment in education. Some countries had chosen to make provisions in their constitutions, with a minimum percentage of tax revenues, the national budget or GDP devoted to education. Others had made financing education a national priority. Many countries had modernized their legislation as part of the Education for All process, providing a legal framework for financing education, especially basic education. Enhanced investment in education was essential to advancing the Education for All agenda and accelerating progress towards achieving the MDGs. Maximum resource allocation for education, and their equitable utilization, should be central to education development strategies in order to overcome persistent inequalities in education and to mitigate marginalization and exclusion.

67. He called for the establishment of an internationally accepted norm, whereby a minimum of 4 to 6 per cent of GNP or 15 to 20 per cent of national budgets should be allocated to education, to provide the basis for further developing national legal and policy frameworks. Strategies, including broadening the tax base, to increase resource allocation needed to be devised. Officials working on national budgeting must be sensitized to the importance of education. Best practices should be shared with other countries and international organizations such as United Nations Educational, Scientific and Cultural Organization (UNESCO) and United Nations Children's Fund (UNICEF) should be encouraged to continue to provide technical assistance in that regard. His next thematic report to the Human Rights Council would focus on norms for quality education, since a paradigm shift was needed to enhance investment in quality education and to respond to quality imperatives, which remained a daunting challenge.

68. Pursuant to General Assembly resolution 64/290, his report included an update on education in emergencies, detailing the remaining challenges and making recommendations on how to safeguard education in emergency situations. It was estimated that 28 million children of primary school age in countries affected by conflict were currently not in school. Another 875 million schoolchildren lived in regions at high risk of seismic activity and hundreds of millions more faced regular natural disasters. It was therefore crucial to make education a priority for humanitarian work and to ensure adequate funding. Emergency situations did not entail the suspension of the obligation of States to take all appropriate measures to ensure the realizations of the right to education of all persons in their territories, including non-nationals, refugees or internally displaced persons.

69. As the Secretary-General had reported in his last annual report on children and armed conflict (A/65/820) attacks against schools were a significant concern and a growing trend. Such attacks would persist as long the perpetrators were not held to account and punished. The adoption of Security Council resolution 1998 (2011) should increase international attention to such situations. The capacity of national and international

mechanisms that monitored and responded to situations where educational institutions had been targeted by those involved in armed conflict must be enhanced.

70. Schools must be better prepared for natural disasters, as they could play a crucial role in the response of communities to emergencies. Specific attention should therefore be given to the education sector in the development of disaster risk reduction strategies. The situation of vulnerable groups also required special consideration, as the obstacles to schooling that they encountered in periods of normalcy were exacerbated in emergency situations. Neglecting discrimination and structural inequalities in education during emergencies could aggravate marginalization. Efforts to ensure gender parity in education were particularly relevant in that context.

71. Resource constraints during emergencies did not justify failures to meet the basic requirements for quality education, such as qualified teachers, adequate education materials and child-friendly environments. However, it was difficult to assess in full the education needs and to design and evaluate education strategies in emergency situations due to a lack of data. States, international organizations and NGOs should work to develop a common framework for the assessment of educational needs in emergency situations. Financing education in times of normality or during emergencies was essential to promoting human development and to fulfilling fundamental human rights obligations, since the enjoyment of the right to education was essential for the exercise of all other human rights.

72. **Mr. Yahiaoui** (Algeria) said that the number of students in primary, secondary, tertiary education in his country was 8 million, not to mention those in university and technical education. The right to free education up to the age of 16 was recognized in the Algerian Constitution. Parents were prosecuted if they failed to enroll their children in school; and the number of girls enrolled in schools was higher than that of boys at all levels. Education was the priority sector in the national budget for 2011, ranking above the Ministry of Defence and the Ministry of the Interior. The State subsidized school meals, transport and accommodation for students from rural areas. Moreover, the President had recently announced a 50 per cent increase in the bursaries awarded to low-income families. It was hoped that the Special Rapporteur would visit Algeria in the near future within the framework of his mandate, which his Government supported, as the right to education was the best way to promote and protect human rights.

73. **Ms. Maduhu** (United Republic of Tanzania) said that her Government had made education a high priority for public investment. With regard to the movement of additional resources for education, she noted that the report referred to the Tanzania Education Authority, whose role was to work with the Government, the public and other partners to solicit resources for the Education Fund and facilitate education projects through the provision of loans and grants to schools, colleges and universities. The Government was the main contributor to the Fund and contributed amounts not exceeding 2 per cent of its annual recurring budget. As a result, primary school enrolment was now at nearly 100 per cent.

74. Secondary school enrolment had increased, but there still many challenges to be overcome in that area. There was still a lack of adequate teaching and learning facilities and materials, such as laboratories and textbooks, due to inadequate funds which hindered the implementation of programmes. New schools had been built, but the main problem was an acute shortage of teachers. Bearing in mind the current global economic crisis, LDCs faced important financial and technical constraints and would be unable to achieve the Education for All targets without the assistance of the international community. Therefore, she asked for further details on the framework for international assistance and cooperation to alleviate those constraints in the education sector.

75. **Mr. Romar** (Indonesia) said that the right to education in his country had been further strengthened by Law No. 20 of 2003 on National Education, which mandated his Government to prioritize the budget allocated for education to a minimum of 20 per cent of the State and regional budget in order to meet national educational needs. In that regard, his Government had significantly increased the education budget: from $3.4 billion in 2005 to $11.3 billion in 2011. It had also taken many initiatives under the education development policy since 2007, notably the compulsory education programme, which had led to an increase in secondary school enrolment rates, both for formal and non-formal education.

76. His country had also established the school operational assistance scheme in 2005 to support implementation of the compulsory education programme,

which was an example of the practical application of the policy to reform financing in education in order to reduce the burden of education costs on communities. Funds were channelled directly to the schools, whose managers decided how to best allocate that money. The scheme covered 34.5 million students in 2005 and 41.9 million in 2008. Since 2006, the funds allocated had increased in nominal terms and had remained relatively constant as a share of education spending through 2009, which demonstrated the sustainability of the programme. Lastly, he asked what could be done to accelerate the enhancement of a quality education, taking into account the financial resources available.

77. **Ms. Reckinger** (Observer for the European Union) asked for further details on the possibility of securing financing for the advancement of the right to education for girls, women and children with disabilities. Further information would be appreciated on the suggestion to establish an internationally accepted norm, whereby a minimum percentage of GNP or the national budget would be allocated to education, and on innovative financing methods and partnerships with the private sector. She requested additional information on the situation with regard to the right to education of vulnerable groups, such as girls, indigenous peoples and persons with disabilities, particularly in emergency situations, and asked what more could be done to ensure girls' security in school during periods of normality.

78. The fact that education was largely underfunded during humanitarian crises was understandable in situations where the choice was between desperately needed food items and education. The solution to that problem lay in increased funding and might therefore remain unachievable. Many humanitarian situations dragged on for years and even decades, and, even in well-established refugee camps, the education facilities were found wanting. Those children fell in a gap between humanitarian and development aid. She asked what could be done to ensure the realization of the right to education of children living through a protracted humanitarian crisis.

79. **Ms. Hubert** (Norway) said that school fees consumed nearly a quarter of a family's income in sub-Saharan Africa and were keeping schoolchildren out of the classroom. She asked if the Special Rapporteur had considered any ways to move expeditiously towards the full realization of the right to education when public budgets were limited and expectations were high and what advice should be given to international donors.

80. **Mr. Sharif** (Malaysia) said that education and training had consistently been awarded the biggest allocation under the national budget since his country's accession to independence in 1957, averaging between one fifth and one quarter of the national budget. Greater emphasis had been placed on education and training, as it was recognized that education was an effective tool to enable Malaysians, and others, to gain equitable benefits from development and to ensure that children had the tools necessary for their further developmental progress.

81. His Government believed that knowledge was the pillar of civilization and the foundation for excellence, thus the education sector would be allocated $6 billion under the 2012 national budget. To provide a brighter future for Malaysian children, irrespective of their socio-economic background, the Government would ensure quality and affordable access to education. To achieve that aim, his country, for the first time in its history, would provide free primary and secondary education for all its nationals.

82. Malaysia had attained the MDG of achieving universal primary education, not only in terms of enrolment but also in terms of the number of primary schoolchildren completing primary school education. In 2009, over 99 per cent of schoolchildren had completed primary school education. The literacy rate had also improved significantly, from 75 per cent in 1970 to 97.3 per cent in 2000. Efforts to develop human capital followed a holistic approach, emphasizing mastery of knowledge, intellectual capital and developing technological and entrepreneurial skills in response to modernization challenges.

83. **Ms. Murillo Ruín** (Costa Rica) said that her country had implemented its own development model that placed importance on the need for public investment in services such as education and health. Article 78 of its Constitution stipulated that preschool and basic education were compulsory, which, together with specialized education in the public sector, were free and paid for by the State. It also provided that spending on state education, including higher education, would not fall below a certain percentage of GDP. That amount had recently been increased to 8 per cent per annum of GDP.

84. With regard to education in emergency situations, she noted that the recommendation made in paragraph 99 of the report referred to the question of quality education and the need to promote human rights education. More details should be provided on that point, particularly in light of the announced report that would be submitted to the Human Rights Council on norms for quality education.

85. **Ms. Li** Xiaomei (China) said that the Special Rapporteur on the right to education should urge developed countries to intensify their assistance to developing countries in order to help them to achieve MDG 2 and should promote the universal benefit of education and education equality. Attention should be given to poor regions and vulnerable populations, and countries should be encouraged to establish and refine equitable education systems that benefited everyone, while taking into account their specific circumstances. An appeal should be made to raise the quality of education and increase education input to reach a level of modernization in education and ensure that education policies were supported with adequate and stable funds.

86. Her Government attached great importance to education, considering it a strategic priority, and had continuously increased input into education. By the end of 2011, it would have met the Education for All targets in full. As a responsible developing country, China had contributed to international cooperation on education. Between 2008 and 2013, China would have established 10,000 fellowships for students from developing countries. In the meantime, training had been provided for 1,500 headmasters and teachers from African countries. Her Government would continue to engage in international cooperation in education and would make a greater contribution to the promotion and protection of the right to education.

87. **Mr. Quintaes** (Brazil) said that it was necessary to adopt a systematic approach to education that encompassed all the different aspects of educational policy, including primary and secondary schools, academic and vocational education, as well as basic and university education and continuous learning, without focusing solely on the fight against illiteracy. It was imperative to develop a close partnership with civil society at every level, especially parents' organizations, and the national education policy embraced a comprehensive social development agenda.

88. The family stipend programme currently benefited more than 12 million families and ensured a minimum income for families who met certain conditions, including school attendance, maternal health examinations and the elimination of child labour. The recently updated national programme to combat extreme poverty aimed to expand access to and enhance the quality of public services, focusing on those sectors of the population living in extreme poverty with a view to raising the well-being and income of all Brazilians. His Government had proposed a new national education plan for the period 2011-2020 to Congress, which would establish 10 major guidelines and allocate 9.5 per cent of GDP to education.

89. **Mr. Fitzgerald** (Australia) said that his country was a strong advocate of mobilizing more resources for education globally. In addition to encouraging Governments to increase their funds for education domestically, Australia urged aid donors to augment their support to the sector. Through the Australian Aid Programme, his Government had increased its own support to education for development. Although impressive gains had been made in promoting school attendance, more needed to be done to help the poor, girls, children with disabilities and other disadvantaged groups. That would require more innovative and expensive approaches and was potentially less politically attractive. He asked how domestic investment in education could be ensured for the poorest and most vulnerable.

90. **Mr. Rankhumise** (South Africa) asked how funding for education could be accelerated, especially in developing countries, with a view to achieving MDG targets on education.

91. **Mr. Singh** (Special Rapporteur on the right to education) said that he welcomed the comments and suggestions from the delegations, particularly China, which he would bear in mind when planning his future activities. With regard to the questions concerning international cooperation, page six of his report dealt with that issue. In fact, international assistance was considered to be an obligation by United Nations treaty bodies. The foundations of international cooperation were expressed in the 2005 Paris Declaration on Aid Effectiveness, which stated that partner countries were committed to intensifying efforts to mobilize domestic resources, strengthen fiscal sustainability, and create an enabling environment for public and private investments.

92. In the same respect, the Leading Group on Innovative Financing for Development had called for an additional international financing mechanism to be devised to promote global development. The Task Force on Innovative Financing for Education was discussing a number of alternatives for education funding. The Programme of Action, drawn up at the Fourth United Nations Conference on Least Developed Countries in May 2011, should also be borne in mind, as it dealt at length with international cooperation and the responsibility of LDCs to produce their own education development strategies and programmes.

93. The question of quality in education was at the heart of the Education for All agenda, therefore States should look at the shortcomings and failures in achieving those targets to identify the impediments to ensuring quality. Sadly, the Education for All requirement that only trained and qualified teachers should be deployed had been neglected, with the result that education in many LDCs was affected by strike action and training had been given to unqualified teachers. Therefore, States should look to the international norms, particularly the ILO/UNESCO Recommendation concerning the Status of Teachers and other recommendations by human rights treaty bodies, to ensure that teachers were qualified before they were deployed, that on-the-job training was available and that the teaching profession was respected, as it did not currently enjoy the social status that it deserved given the expectations and responsibilities that it entailed.

94. With regard to the importance of quality in education in emergency situations, he referred to page 20 of his report, which detailed quality imperatives, including the *INEE Minimum Standards for Education: Preparedness, Response, Recovery* and its *Guidance Notes on Teaching and Learning*, as well as a number of other materials that had been prepared to ensure that quality guidance was available and to improve quality in emergencies, because, even in emergency situations, quality should not be neglected.

95. In response to the question on women's empowerment and securing the advancement of persons with disabilities, he said that he had consistently advocated the need to follow up the Ministerial Declaration of the 2010 high-level segment of the Economic and Social Council (ECOSOC) on implementing the internationally agreed goals and commitments in regard to gender equality and the empowerment of women, for which he considered education to be a key area, particularly as the Declaration focused on legislative frameworks.

96. Governments should focus on establishing the legislative frameworks, in accordance with their responsibilities under the Convention on the Elimination of All Forms of Discrimination against Women and the concluding observations of the Committee on the Elimination of Discrimination against Women. An equally important consideration was the advancement of persons with disabilities, which had been evoked on numerous occasions in the work of the High Commissioner for Human Rights and others in follow-up to the Convention on the Rights of Persons with Disabilities.

97. The High-level Group on Education for All had been advocating the need to allocate a minimum percentage of the national budget to education since 2005. That would ensure the sustainability and predictability of national educational policies. States could draw upon the experiences of other countries, particularly with regard to legislative measures as highlighted in his report. Once States had guaranteed a minimum of at least 15 or 20 per cent of expenditure for education, they could then focus on mobilizing additional resources, examples of which were given in his report.

98. With regard to the question of innovative financing in partnership with the private sector, studies by the International Institute of Educational Planning (IIEP) had shown the importance of developing public and private sector partnerships. However, he stressed that the primary responsibility for education lay with the State, particularly with regard to providing universal, free primary education, which was a global priority. The Government should therefore take the lead in providing education resources at the primary school level and in establishing norms and regulations that would allow other stakeholders, including those from the private sector, to contribute to the education sector. In light of the approaching deadline for the MDGs, it was vital to try to mobilize the maximum amount of resources, as Governments alone could not meet the commitments and targets that they had undertaken. Therefore, the mobilization of other stakeholders and local communities was essential.

99. Finally, humanitarian assistance in terms of education was currently less than 2 per cent. When

faced with man-made or natural disasters, it was of the utmost importance to encourage donors and country partners to provide financial contributions in order to be able to respond to the emergency education challenges. He called upon States to explore all possible avenues of financing in order to support the noble cause of realizing the right to education.

The meeting rose at 6.10 p.m.